To: Surgical Specialties Corporation (US), I ETC. (

KevinC.Docketing@SeedIP.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86081312 - SURGICAL

SPECIALTIES - 110129.20579

Sent: 5/18/2015 5:30:09 PM

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U.S. APPLICATION SERIAL NO. 86081312

MARK: SURGICAL SPECIALTIES

CORRESPONDENT ADDRESS:

KEVIN S COSTANZA SEED IP LAW GROUP PLLC 701 5TH AVE STE 5400 SEATTLE, WA 98104-7064

86081312

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APPLICANT: Surgical Specialties Corporation (US), I

ETC.

CORRESPONDENT'S REFERENCE/DOCKET NO:

110129.20579

CORRESPONDENT E-MAIL ADDRESS:

KevinC.Docketing@SeedIP.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 5/18/2015

THIS IS A FINAL ACTION.

This letter responds to the applicant's communication filed on May 12, 2015. The applicant (1) argued that the examining attorney should accept the applicant's claim of acquired distinctiveness under Section 2(f) and (2) argued against the refusal under Section 2(d).

For the reasons set forth below, the refusal under Trademark Act Section 2(d) is now made **FINAL** with respect to U.S. Registration Nos. 3869465, 3980038, 3988543, 3988544, 3988545, and 4004998. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.63(b).

Furthermore, the refusal under Trademark Act Section 2(e)(1) is now made **FINAL** for the reasons set forth below. *See* 15 U.S.C. §1052(e)(1); 37 C.F.R. §2.63(b).

In addition, the following requirement is now made <u>FINAL</u>: Five Years' Use Insufficient to Establish Acquired Distinctiveness – Additional Evidence Needed. *See* 37 C.F.R. §2.63(b).

Refusal: Section 2(d) – Likelihood of Confusion Refusal

Registration was refused under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the mark for which registration is sought so resembles the marks shown in U.S. Registration No. 3869465, 3980038, 3988543, 3988544, 3988545, and 4004998 as to be likely, when used in connection with the identified goods, to cause confusion, or to cause mistake, or to deceive.

The examining attorney has considered the applicant's arguments carefully but has found them unpersuasive. For the reasons below, the refusal under Section 2(d) is maintained and is now made

FINAL.

The applicant applied to register the mark SURGICAL SPECIALTIES in standard character form for "medical devices, namely, surgical apparatus and instruments for medical, dental and/or veterinary use." The cited registered marks, all owned by The Wallace Enterprises, Inc., are AMERICAN SURGICAL SPECIALTIES COMPANY in standard character form for "Wholesale store services, mail-order wholesale services, on-line wholesale services and wholesale ordering services in the fields of surgical and medical devices, instruments and equipment and laparoscopic surgical and medical devices, instruments and equipment," AMERICAN SURGICAL SPECIALTIES COMPANY with a design element for "Wholesale store services, mail-order wholesale services, on-line wholesale store services and wholesale ordering services in the fields of surgical and medical devices, instruments and equipment and laparoscopic surgical and medical devices, instruments and equipment.," AMERICAN SURGICAL SPECIALTIES COMPANY in standard character form for "Maintenance and repair of surgical and medical devices, instruments and equipment," AMERICAN SURGICAL SPECIALTIES COMPANY in standard character form for "Education services, namely, providing training services in the field of proper use, storage, maintenance and repair of surgical and medical devices, instruments and equipment," AMERICAN SURGICAL SPECIALTIES COMPANY with a design element for "Maintenance and repair of surgical and medical devices, instruments and equipment," and AMERICAN SURGICAL SPECIALTIES COMPANY with a design element for "Education services, namely, providing training services in the field of proper use, storage, maintenance and repair of surgical and medical devices, instruments and equipment."

Comparison of the Marks

Regarding the first prong of the test, marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

For a composite mark containing both words and a design, the word portion may be more likely to be impressed upon a purchaser's memory and to be used when requesting the goods and/or services. Joel Gott Wines, LLC v. Rehoboth Von Gott, Inc., 107 USPQ2d 1424, 1431 (TTAB 2013) (citing In re Dakin's Miniatures, Inc., 59 USPO2d 1593, 1596 (TTAB 1999)); TMEP §1207.01(c)(ii); see In re Viterra Inc., 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012) (citing CBS Inc. v. Morrow, 708 F. 2d 1579, 1581-82, 218 USPQ 198, 200 (Fed. Cir 1983)). Thus, although such marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. In re Viterra Inc., 671 F.3d at 1366, 101 USPQ2d at 1911 (Fed. Cir. 2012) (citing Giant Food, Inc. v. Nation's Foodservice, Inc., 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)). The dominant portion in each of the registrant's marks is the wording AMERICAN SURGICAL SPECIALTIES COMPANY. Thus, the applicant's mark is highly similar to the dominant portion of each of the cited registered marks with respect to sound, appearance, and commercial impression. The applicant's mark and the registrant's marks share the wording SURGICAL SPECIALTIES. Marks may be confusingly similar in appearance where similar terms or phrases or similar parts of terms or phrases appear in the compared marks and create a similar overall commercial impression. See Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce, 228 USPQ 689, 690-91 (TTAB 1986), aff'd sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat'l Ass'n, 811 F.2d 1490, 1495, 1 USPQ2d 1813, 1817 (Fed. Cir. 1987) (finding COMMCASH and COMMUNICASH confusingly similar); In re Corning Glass Works, 229 USPQ 65, 66 (TTAB 1985) (finding CONFIRM and CONFIRMCELLS confusingly similar); In re Pellerin Milnor Corp., 221 USPO 558, 560 (TTAB 1983) (finding MILTRON

and MILLTRONICS confusingly similar); TMEP §1207.01(b)(ii)-(iii).

The applicant argues that the marks are not confusingly similar because the dominant portion of the registrant's marks is the wording AMERICAN SURGICAL. However, even if this was accurate, the marks are still confusingly similar. As noted above, the marks share the wording SURGICAL SPECIALTIES. When comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impression that confusion as to the source of the goods and/or services offered under the respective marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *In re Davia*, 110 USPQ2d 1810, 1813 (TTAB 2014); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *United Global Media Grp., Inc. v. Tseng*, 112 USPQ2d 1039, 1049, (TTAB 2014); *L'Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); TMEP §1207.01(b).

Moreover, some of the cited registered marks are in standard character form. A mark in typed or standard characters may be displayed in any lettering style; the rights reside in the wording or other literal element and not in any particular display or rendition. *See In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1909 (Fed. Cir. 2012); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); 37 C.F.R. §2.52(a); TMEP §1207.01(c)(iii).

Considering the above, the marks are sufficiently similar to cause a likelihood of confusion under Trademark Act Section 2(d).

Comparison of the Goods and Services

Turning to the second prong of the test, the goods and services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting 7-Eleven Inc. v. Wechsler, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

The trademark examining attorney has attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and services as those of both applicant and registrant in this case. This evidence shows that the goods and services listed therein, namely medical devices, wholesale store services featuring medical devices, and repair and maintenance of medical devices, are of a kind that may emanate from a single source under a single mark. *See In re Anderson*, 101 USPQ2d 1912, 1919 (TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

Furthermore, the attached Internet evidence consists of the websites of entities that sell/provide the applicant's goods and provide the registrant's services. This evidence establishes that the same entity commonly manufactures/produces/provides the relevant goods and services and markets the goods and services under the same mark and that the relevant goods and services are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use. Therefore, applicant's and registrant's goods and services are considered related for likelihood of confusion purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba*

Med. Sys. Corp., 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods and/or services are related. See, e.g., In re G.B.I. Tile & Stone, Inc., 92 USPQ2d 1366, 1371 (TTAB 2009); In re Paper Doll Promotions, Inc., 84 USPQ2d 1660, 1668 (TTAB 2007). Finally, consumers are likely to be confused by the use of similar marks on or in connection with goods and with services featuring or related to those goods. TMEP §1207.01(a)(ii); see In re Hyper Shoppes (Ohio), Inc., 837 F.2d 463, 6 USPO2d 1025 (Fed. Cir. 1988) (holding BIGG'S for retail grocery and general merchandise store services likely to be confused with BIGGS for furniture); In re United Serv. Distribs., Inc., 229 USPQ 237 (TTAB 1986) (holding design for distributorship services in the field of health and beauty aids likely to be confused with design for skin cream); In re Phillips-Van Heusen Corp., 228 USPQ 949 (TTAB 1986) (holding 21 CLUB for various items of men's, boys', girls' and women's clothing likely to be confused with THE "21" CLUB (stylized) for restaurant services and towels); In re U.S. Shoe Corp., 229 USPQ 707 (TTAB 1985) (holding CAREER IMAGE (stylized) for retail women's clothing store services and clothing likely to be confused with CREST CAREER IMAGES (stylized) for uniforms); Steelcase Inc. v. Steelcare Inc., 219 USPO 433 (TTAB 1983) (holding STEELCARE INC. for refinishing of furniture, office furniture, and machinery likely to be confused with STEELCASE for office furniture and accessories); Mack Trucks, Inc. v. Huskie Freightways, Inc., 177 USPQ 32 (TTAB 1972) (holding similar marks for trucking services and on motor trucks and buses likely to cause confusion).

Conclusion

The applicant's mark must be refused registration under Trademark Act Section 2(d). The applicant's mark is highly similar to the registrant's marks with respect to sound, appearance, and commercial impression. Further, the applicant's goods and the registrant's services are closely related, commonly originate from the same source, and are provided through the same channels of trade. As such, the refusal to register the mark under Section 2(d) is maintained and is now made **FINAL**.

Refusal: Section 2(e)(1) – Descriptive Refusal

Registration was refused under Trademark Act Section 2(e)(1), 15 U.S.C. Section 1052(e)(1), because the subject matter for which registration is sought is merely descriptive of the identified goods. The examining attorney has considered the applicant's arguments carefully but has found them unpersuasive. For the reasons below, the refusal under Section 2(e)(1) is maintained and is now made **FINAL**.

The applicant applied to register the mark SURGICAL SPECIALTIES in standard character form for "medical devices, namely, surgical apparatus and instruments for medical, dental and/or veterinary use." A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods. TMEP §1209.01(b); see, e.g., DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd., 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting In re Oppedahl & Larson LLP, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); In re Steelbuilding.com, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing Estate of P.D. Beckwith, Inc. v. Comm'r of Patents, 252 U.S. 538, 543 (1920)).

The determination of whether a mark is merely descriptive is made in relation to an applicant's goods, not in the abstract. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012); *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b); *see, e.g., In re Polo Int'l Inc.*, 51 USPQ2d 1061, 1062-63 (TTAB 1999) (finding DOC in DOC-CONTROL would refer to the "documents" managed by applicant's software rather than the term "doctor" shown in a dictionary definition); *In re Digital Research Inc.*, 4 USPQ2d 1242, 1243-44 (TTAB 1987) (finding CONCURRENT PC-DOS and CONCURRENT DOS merely descriptive of "computer programs recorded on disk" where the relevant trade used the denomination "concurrent" as a descriptor of a particular type of operating system). "Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

The attached evidence from The American Heritage Dictionary shows that the wording SURGICAL is defined as "used in surgery" and the wording SPECIALTY is defined as "A branch of medicine or surgery, such as cardiology or neurosurgery, in which a physician specializes; the field or practice of a specialist."

Furthermore, the attached evidence from thefreedictionary.com shows that the wording SURGICAL SPECIALTY is defined as "A specialty of healthcare in which interventions constitute a significant component of patient management."

Finally, the attached evidence from various Internet websites shows that the wording SURGICAL SPECIALTY/SURGICAL SPECIALTIES is commonly used to describe the function or purpose of goods that are identical to the applicant's goods and goods that are similar to the applicant's goods. Material obtained from the Internet is generally accepted as competent evidence. *See In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-03 (TTAB 2009) (accepting Internet evidence to show relatedness of goods in a likelihood of confusion determination); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); *In re White*, 80 USPQ2d 1654, 1662 (TTAB 2006) (accepting Internet evidence to show false suggestion of a connection); *In re Joint-Stock Co. "Baik"*, 80 USPQ2d 1305, 1308-09 (TTAB 2006) (accepting Internet evidence to show geographic significance); *In re Consol. Specialty Rests. Inc.*, 71 USPQ2d 1921, 1927-29 (TTAB 2004) (accepting Internet evidence to show geographic location is well-known for particular goods); *In re Gregory*, 70 USPQ2d 1792, 1793, 1795 (TTAB 2004) (accepting Internet evidence to show surname significance); *In re Fitch IBCA Inc.*, 64 USPQ2d 1058, 1060-61 (TTAB 2002) (accepting Internet evidence to show descriptiveness); TBMP §1208.03; TMEP §710.01(b).

The applicant is a corporation that is providing surgical apparatus and instruments for those in the surgical specialty field. Therefore, the applicant's mark is merely descriptive of the identified goods. Marks comprising more than one element must be considered as a whole and should not be dissected; however, a trademark examining attorney may consider the significance of each element separately in the course of evaluating the mark as a whole. *See DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1253, 103 USPQ2d 1753, 1756-57 (Fed. Cir. 2012) (reversing Board's denial of cancellation for SNAP! with design for medical syringes as not merely descriptive when noting that the Board "to be sure, [could] ascertain the meaning and weight of each of the components that ma[de] up the mark"); *In re Hotels.com, L.P.*, 573 F.3d 1300, 1301, 1304, 1306, 91 USPQ2d 1532, 1533, 1535, 1537 (Fed. Cir. 2009) (holding HOTELS.COM generic for information and reservation services featuring temporary lodging when noting that the Board did not commit error in considering "the word 'hotels' for genericness separate from the '.com' suffix").

Moreover, generally, if the individual components of a mark retain their descriptive meaning in relation to the goods, the combination results in a composite mark that is itself descriptive and not registrable. *In re* Phoseon Tech., Inc., 103 USPQ2d 1822, 1823 (TTAB 2012); TMEP §1209.03(d); see, e.g., In re King Koil Licensing Co., 79 USPQ2d 1048, 1052 (TTAB 2006) (holding THE BREATHABLE MATTRESS merely descriptive of beds, mattresses, box springs, and pillows where the evidence showed that the term "BREATHABLE" retained its ordinary dictionary meaning when combined with the term "MATTRESS" and the resulting combination was used in the relevant industry in a descriptive sense); In re Associated Theatre Clubs Co., 9 USPQ2d 1660, 1663 (TTAB 1988) (holding GROUP SALES BOX OFFICE merely descriptive of theater ticket sales services, because such wording "is nothing more than a combination of the two common descriptive terms most applicable to applicant's services which in combination achieve no different status but remain a common descriptive compound expression"). Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods is the combined mark registrable. See In re Colonial Stores, Inc., 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968); In re Positec Grp. Ltd., 108 USPQ2d 1161, 1162-63 (TTAB 2013). In this case, both the individual components and the composite result are descriptive of applicant's goods and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods.

The applicant argues that the applicant's mark is suggestive of the identified goods. A mark is suggestive if some imagination, thought, or perception is needed to understand the nature of the goods described in the mark; whereas a descriptive term immediately and directly conveys some information about the goods and/or services. *See Stoncor Grp., Inc. v. Specialty Coatings, Inc.*, 759 F.3d 1327, 1332, 111 USPQ2d 1649, 1652 (Fed. Cir. 2014) (citing *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251-52, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012)); TMEP §1209.01(a). Here, the applicant's mark immediately conveys to consumers that the goods are for use in surgical specialties. Thus, the applicant's mark is merely descriptive of the identified goods.

The applicant also argues that the mark is too vague and ambiguous to be descriptive. However, determining the descriptiveness of a mark is done in relation to an applicant's goods and/or services, the context in which the mark is being used, and the possible significance the mark would have to the average purchaser because of the manner of its use or intended use. *See In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (citing *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963-64, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); TMEP §1209.01(b). Descriptiveness of a mark is not considered in the abstract. *In re Bayer Aktiengesellschaft*, 488 F.3d at 963-64, 82 USPQ2d at 1831.

"Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985). The question is not whether someone presented only with the mark could guess what the goods and/or services are, but "whether someone who knows what the goods and[/or] services are will understand the mark to convey information about them." *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (quoting *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002)); *In re Franklin Cnty. Historical Soc'y*, 104 USPQ2d 1085, 1087 (TTAB 2012).

Conclusion

The applicant's mark must be refused registration on the Principal Register under Trademark Act Section 2(e)(1). The evidence shows that the applicant's mark is merely descriptive of the identified goods. Furthermore, the applicant has failed to show that the mark is anything other than merely descriptive of the identified goods. As such, the refusal to register the mark on the Principal Register under Trademark Act Section 2(e)(1) is maintained and is now made **FINAL**.

<u>Requirement: Five Years' Use Insufficient to Establish Acquired Distinctiveness – Additional Evidence Needed</u>

Applicant amended the application to assert acquired distinctiveness based on five years' use in commerce. However, the examining attorney informed the applicant that the allegation of five years' use was insufficient to show acquired distinctiveness because the applied-for mark is highly descriptive of applicant's goods. *In re Kalmbach Publ'g Co.*, 14 USPQ2d 1490, 1492 (TTAB 1989); TMEP §1212.05(a). Additional evidence is needed.

When asserting a Trademark Act Section 2(f) claim, the burden of proving that a mark has acquired distinctiveness is on the applicant. *Yamaha Int'l Corp. v. Yoshino Gakki Co.*, 840 F.2d 1572, 1578-79, 6 USPQ2d 1001, 1004 (Fed. Cir. 1988); *In re Meyer & Wenthe, Inc.*, 267 F.2d 945, 948, 122 USPQ 372, 375 (C.C.P.A. 1959); TMEP §1212.01. Thus, the examining attorney required that the applicant establish that the purchasing public has come to view the proposed mark as an indicator of origin. In the present case, applicant's claim of acquired distinctiveness based on five years' use in commerce is

insufficient to show acquired distinctiveness of the proposed mark because the wording SURGICAL SPECIALTIES is commonly used throughout the surgical apparatuses and instruments field to describe that the applicant's goods are used in various surgical specialties. *See the attached evidence from various Internet websites*.

The applicant responded and argued that since the applicant has been using the mark for more than 17 years, this weighs heavily in favor of the claim of acquired distinctiveness being accepted by the examining attorney. However, while the applicant has been using the mark for 17 years, the mark is still

highly descriptive and the evidence shows that the wording SURGICAL SPECIALTIES is so commonly used in connection with the applicant's goods that the applicant must provide additional evidence to show that they have had exclusive and continuous use of the mark for that time period. *See the attached evidence*. Material obtained from the Internet is generally accepted as competent evidence. *See In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-03 (TTAB 2009) (accepting Internet evidence to show relatedness of goods in a likelihood of confusion determination); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); *In re White*, 80 USPQ2d 1654, 1662 (TTAB 2006) (accepting Internet evidence to show false suggestion of a connection); *In re Joint-Stock Co.* "Baik", 80 USPQ2d 1305, 1308-09 (TTAB 2006) (accepting Internet evidence to show geographic significance); *In re Consol. Specialty Rests. Inc.*, 71 USPQ2d 1921, 1927-29 (TTAB 2004) (accepting Internet evidence to show geographic location is well-known for particular goods); *In re Gregory*, 70 USPQ2d 1792, 1793, 1795 (TTAB 2004) (accepting Internet evidence to show surname significance); *In re Fitch IBCA Inc.*, 64 USPQ2d 1058, 1060-61 (TTAB 2002) (accepting Internet evidence to show descriptiveness); TBMP §1208.03; TMEP §710.01(b).

The number of the years that the applicant has used a particular mark is only part of the analysis with respect to a claim of acquired distinctiveness. Since the applicant failed to provide any additional evidence to support the applicant's claim of acquired distinctiveness and because the mark is so highly descriptive of the identified goods, the claim of acquired distinctiveness cannot be accepted.

To support the claim of acquired distinctiveness, applicant may respond by submitting additional evidence. *In re Half Price Books, Records, Magazines, Inc.*, 225 USPQ 219, 220 n.2 (TTAB 1984); TMEP §1212.02(g). Such evidence may include specific dollar sales under the mark, advertising figures, samples of advertising, consumer or dealer statements of recognition of the mark as a source identifier, affidavits, and any other evidence that establishes the distinctiveness of the mark as an indicator of source. *See* 37 C.F.R. §2.41(a); *In re Ideal Indus., Inc.*, 508 F.2d 1336, 1339-40, 184 USPQ 487, 489-90 (C.C.P.A. 1975); *In re Instant Transactions Corp. of Am.*, 201 USPQ 957, 958-59 (TTAB 1979); TMEP §§1212.06 *et seq.*

The following factors are generally considered when determining whether a proposed mark has acquired distinctiveness based on extrinsic evidence: (1) length and exclusivity of use of the mark in the United States by applicant; (2) the type, expense, and amount of advertising of the mark in the United States; and (3) applicant's efforts in the United States to associate the mark with the source of the goods and/or services, such as unsolicited media coverage and consumer studies. *See In re Steelbuilding.com*, 415 F.3d 1293, 1300, 75 USPQ2d 1420, 1424 (Fed. Cir. 2005); *Bd. of Trs. v. Pitts, Jr.*, 107 USPQ2d 2001, 2016 (TTAB 2013). A showing of acquired distinctiveness need not consider all these factors, and no single factor is determinative. *In re Steelbuilding.com*, 415 F.3d at 1300, 75 USPQ2d at 1424; *see* TMEP §§1212.06 *et seq.* The USPTO will decide each case on its own merits.

If applicant cannot submit additional evidence to support the claim of acquired distinctiveness, applicant may respond to the refusal by arguing in support of registration and/or amending the application to seek registration on the Supplemental Register. *See* 15 U.S.C. §1091; 37 C.F.R. §§2.47, 2.75(a); TMEP §§801.02(b), 816. If applicant amends the application to the Supplemental Register, applicant is not precluded from submitting evidence and arguments against this refusal. TMEP §816.04. Since the applicant failed to provide sufficient evidence to show that the applied-for mark has acquired distinctiveness in the marketplace, this requirement is maintained and is now made **FINAL**.

Response Guidelines

Applicant must respond within six months of the date of issuance of this final Office action or the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond by providing one or both of the following:

- (1) A response that fully satisfies all outstanding requirements and/or resolves all outstanding refusals.
- (2) An appeal to the Trademark Trial and Appeal Board, with the appeal fee of \$100 per class.

37 C.F.R. §2.63(b)(1)-(2); TMEP §714.04; see 37 C.F.R. §2.6(a)(18); TBMP ch. 1200.

In certain rare circumstances, an applicant may respond by filing a petition to the Director pursuant to 37 C.F.R. §2.63(b)(2) to review procedural issues. TMEP §714.04; *see* 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Seth A. Rappaport/ Seth A. Rappaport Trademark Examining Attorney Law Office 103 Phone: (571) 270-1508

Fax: (571) 270-2508

email: seth.rappaport@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at http://tsdr.uspto.gov/. Please keep

a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see http://www.uspto.gov/trademarks/process/status/.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at http://www.uspto.gov/trademarks/teas/correspondence.jsp.

DESIGN MARK

Serial Number

75269073

Status

REGISTERED AND RENEWED

Word Mark

SIEMENS

Standard Character Mark

No

Registration Number

2508299

Date Registered

2001/11/20

Type of Mark

TRADEMARK: SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

SIEMENS AKTIENGESELLSCHAFT JOINT STOCK COMPANY FED REP GERMANY Wittelsbacherplatz 2 Munich FED REP GERMANY

Goods/Services

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: CREDIT SERVICES, NAMELY, PROVIDING LEASE PURCHASE FINANCING. First Use: 1974/00/00. First Use In Commerce: 1974/00/00.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: [HOUSEMARK FOR A FULL LINE OF APPARATUS FOR MEDICAL AND SURGICAL USE, NAMELY, PATIENT MONITORING SYSTEMS, TELEMETRY SYSTEMS, PULSE OXIMETERS, RESPIRATORY CARE SYSTEMS, ANAESTHESIA SYSTEMS, ARRHYTHMIA SYSTEMS, AND VENTILATOR SYSTEMS, AND PARTS FOR THE FOREGOING;] HOUSEMARK FOR A FULL LINE OF MEDICAL DIAGNOSTIC IMAGING SYSTEMS, MAGNETIC RESONANCE SYSTEMS, TOMOGRAPHY SYSTEMS, AND COMPONENTS AND PARTS FOR THE FOREGOING; MOBILE MEDICAL APPARATUS, NAMELY, TRUCK TRANSPORTED MAGNETIC RESONANCE IMAGING SYSTEMS, AND PARTS FOR THE MAGNETIC RESONANCE IMAGING SYSTEMS; HOUSEMARK FOR A FULL LINE OF APPARATUS FOR MEDICAL AND SURGICAL USE, NAMELY, RADIOGRAPHY, FLUOROSCOPY, ANGIOGRAPHY, ARRHYTHMIA, ANGIOGRAPHY, X-RAY, MAMMOGRPHY, LITHOTRIPSY

AND PHYSIOLOGICAL RECORDING SYSTEMS, APPARATUS, COMPONENTS AND PARTS FOR THE FOREGOING: HOUSEMARK FOR A FULL LINE OF NUCLEAR MEDICINE IMAGING SYSTEMS, TOMOGRAPHY SYSTEMS, COMPONENTS AND PARTS FOR THE FOREGOING; HOUSEMARK FOR A FULL LINE OF APPARATUS FOR ONCOLOGY CARE. NAMELY, RADIATION THERAPY TREATMENT SYSTEMS, TREATMENT VERIFICATION SYSTEMS, PORTAL IMAGING SYSTEMS, AND PARTS FOR THE FOREGOING; HOUSEMARK FOR A FULL LINE OF DIAGNOSTIC ULTRASOUND APPARATUS AND ULTRASOUND DIAGNOSTIC SYSTEMS, AND PARTS FOR THE FOREGOING; HOUSEMARK FOR A FULL LINE OF HEARING AIDS[, ASSISTIVE LISTENING DEVICES, AUDITORY TRAINING DEVICES] FOR USE IN THE TREATMENT OF HEARING LOSS AND PARTS FOR THE FOREGOING; HOUSEMARK FOR A FULL LINE OF PROFESSIONAL AUDIOLOGY PRODUCTS, NAMELY, APPARATUS FOR EXAMINATION AND DIAGNOSIS OF HEARING PROBLEMS, HEARING DIAGNOSTIC TESTING AND RECORDING APPARATUS, AND PARTS FOR THE FOREGOING; [ELECTRONIC AND BATTERY OPERATED SPEECH AND VOICE AIDS, AND PARTS FOR THE FOREGOING]. First Use: 1954/00/00. First Use In Commerce: 1954/00/00.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: REPAIR AND MAINTENANCE OF MEDICAL APPARATUS FOR OTHERS; REPAIR AND MAINTENANCE OF HEARING AIDS [, ASSISTIVE LISTENING DEVICES, AUDITORY TRAINING DEVICES AND HEARING CONSERVATION PRODUCTS] AND ACCESSORIES. First Use: 1957/00/00. First Use In Commerce: 1957/00/00.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: EDUCATIONAL SERVICES, NAMELY, TRAINING OF OTHERS IN THE OPERATION OF MEDICAL APPARATUS. First Use: 1961/00/00. First Use In Commerce: 1961/00/00.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: DESIGNING BUILDINGS FOR HOUSING MEDICAL APPARATUS, FOR OTHERS; LEASING SERVICES FOR MEDICAL APPARATUS; PROVIDING TECHNICAL AND ENGINEERING CONSULTING SERVICES RELATING TO CONFIGURATION AND SYSTEMS DESIGN IN THE FIELD OF MEDICAL APPARATUS; CONSULTATION SERVICES IN THE FIELD OF SELECTION AND OPERATION OF MEDICAL APPARATUS; PRODUCT DESIGN FOR OTHERS IN THE FIELD OF MEDICAL APPARATUS SYSTEMS. First Use: 1961/00/00. First Use In Commerce: 1961/00/00.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: HOUSEMARK FOR A FULL LINE OF COMPUTER HARDWARE FOR MEDICAL AND SURGICAL USE, [PATIENT MONITORING,] MEDICAL, SURGICAL AND PATIENT DATA MANAGEMENT AND CLINICAL INFORMATION; HOUSEMARK FOR COMPUTER SOFTWARE FOR PROCESSING, ANALYZING, DISPLAYING AND STORING PATIENT DATA, CLINICAL INFORMATION AND DATA COLLECTED BY MEDICAL DIAGNOSTIC APPARATUS AND PATIENT MONITORING APPARATUS; HOUSEMARK FOR A FULL LINE OF CLINICAL COMPUTER WORKSTATIONS; HOUSEMARK FOR A FULL LINE OF MEDICAL IMAGE ARCHIVING COMPUTER SYSTEMS, AND PARTS FOR THE FOREGOING; HOUSEMARK FOR A FULL LINE OF COMPUTER APPARATUS FOR ONCOLOGY CARE, NAMELY, THERAPY DATA MANAGEMENT COMPUTER SYSTEMS AND TREATMENT

SIMULATION COMPUTER SYSTEMS, AND PARTS FOR THE FOREGOING; BATTERIES FOR HEARING AIDS AND PRODUCTS TO ASSIST THE HEARING IMPAIRED [, ASSISTIVE LISTENING DEVICES, AND AUDITORY TRAINING DEVICES; BATTERIES FOR ELECTROLARYNX APPARATUS, AND SPEECH AND VOICE AIDS]; HOUSEMARK FOR HEARING INSTRUMENT ANALYZERS AND OTHER PRODUCTS FOR TESTING AND EVALUATING HEARING AIDS [AND ASSISTIVE LISTENING DEVICES], COMPUTER HARDWARE AND SOFTWARE FOR PROGRAMMING AND REPROGRAMMING HEARING AIDS, COMPUTER HARDWARE AND SOFTWARE FOR TRACKING PATIENT AUDIOLOGICAL INFORMATION, AND PARTS FOR THE FOREGOING. First Use: 1980/00/00. First Use In Commerce: 1980/00/00.

Section 2f Statement

2(F) ENTIRE MARK

Filing Date

1997/04/03

Examining Attorney

PERRY, KIMBERLY

Attorney of Record

LAWRENCE E ABELMAN

-3-

SIEMENS

DESIGN MARK

Serial Number

75892675

Status

REGISTERED AND RENEWED

Word Mark

RELAX THE BACK

Standard Character Mark

No

Registration Number

2707437

Date Registered

2003/04/15

Type of Mark

TRADEMARK: SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

RELAX THE BACK CORPORATION CORPORATION DELAWARE 6 Centerpointe Drive Suite 350 La Palma CALIFORNIA 906232538

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: RETAIL AND WHOLESALE STORE SERVICES IN THE FIELD OF PRODUCTS FOR THE PREVENTION AND RELIEF OF BACK PAIN AND DISCOMFORT; AND DISTRIBUTORSHIP SERVICES IN FIELD OF PRODUCTS FOR THE PREVENTION AND RELIEF OF BACK PAIN AND DISCOMFORT. First Use: 1998/00/00. First Use In Commerce: 1998/00/00.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: ELECTRIC AND NONELECTRIC MASSAGE APPARATUS; MASSAGE CHAIRS, MASSAGING LUMBAR SUPPORTS AND ROLLS, [MEDICAL BRACES, BINDERS AND SAFETY SUPPORTS FOR LIMBS, JOINTS, AND BACK,] HOT AND COLD PACKS FOR MEDICAL USE, [ORTHOPAEDIC FOOTCARE PRODUCTS, NAMELY, SHOES AND SHOE INSERTS] AND PHYSICAL THERAPY EQUIPMENT, NAMELY, STRETCHING AIDS, MECHANICAL ROLLERS, CUSHIONS, THERAPY BALLS, AND MEDICINE BALLS; WEDGED SHAPED PILLOWS AND, AND WRIST SUPPORTS FOR MEDICAL/THERAPEUTIC PURPOSES, FULL LUMBAR SEATS, AND ELECTRICAL AND NON-ELECTRICAL LUMBAR BACKRESTS,

MATTRESS OVERLAYS FOR MEDICAL AND THERAPEUTIC PURPOSES; [THERAPEUTIC MASSAGE APPARATUS, NAMELY, BEADED SEAT COVERS]. First Use: 1998/00/00. First Use In Commerce: 1998/00/00.

Goods/Services

Class Status -- ACTIVE. IC 020. US 002 013 022 025 032 050. G & S: FURNITURE, NAMELY, CHAIRS, RECLINERS, [ROCKERS,] LOVE SEAT CHAIRS, PORTABLE SEATS, SLANTED DESK TOPS, OFFICE SEATS, PILLOWS, SOFAS, TABLES, COMMERCIAL WORKSTATIONS INCLUDING ACCESSORIES AND COMPONENTS THEREFOR; DESKS USED WHILE STANDING; BEDS SPECIFICALLY DESIGNED TO TREAT BACK CONDITIONS. First Use: 1998/00/00. First Use In Commerce: 1998/00/00.

Prior Registration(s)

1714372;1763540;2269336;2304433;AND OTHERS

Filing Date

2000/01/07

Examining Attorney

LEIPZIG, MARC

Attorney of Record

Maria v. Hardison



DESIGN MARK

Serial Number

76054606

Status

REGISTERED AND RENEWED

Registration Number

2884563

Date Registered

2004/09/14

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(2) DESIGN ONLY

Owner

Liberator Medical Supply, Inc. CORPORATION FLORIDA 4330 SE Federal Highway Stuart FLORIDA 34997

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: FULL LINE OF MEDICAL SUPPLIES IN THE NATURE OF MEDICAL DEVICES, NAMELY DIABETIC SUPPLIES, MASTECTOMY PRODUCTS, WOUND CARE PRODUCTS, BATHROOM SAFETY PRODUCTS, AIDS TO DAILY LIVING PRODUCTS, MOBILITY PRODUCTS, INCONTINENCE PRODUCTS, PERSONAL DIAGNOSTIC PRODUCTS, ORTHOPEDIC SUPPORTS, AND WALKING AIDS. First Use: 2000/01/06. First Use In Commerce: 2000/01/08.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: RETAIL AND WHOLESALE STORE SERVICES FEATURING MEDICAL SUPPLIES; MAIL ORDER MEDICAL SUPPLY SERVICES. First Use: 2000/05/01. First Use In Commerce: 2000/08/01.

Lining/Stippling Statement

The lining is a feature of the mark and does not indicate color.

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2000/05/19

Examining Attorney COGGINS, ROBERT

Attorney of Record Richard A. Flynt





DESIGN MARK

Serial Number

76492810

Status

PARTIAL SECTION 8 & 15 ACCEPTED AND ACKNOWLEDGED

Word Mark

OTTO BOCK

Standard Character Mark

No

Registration Number

2969168

Date Registered

2005/07/19

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Otto Bock HealthCare GmbH LIMITED LIABILITY COMPANY FED REP GERMANY Max-Nader-Strasse 15 37115 Duderstadt FED REP GERMANY

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Custom designing of prostheses, orthopedic devices, bandages and shoes for others.

Goods/Services

Class Status -- ACTIVE. IC 001. US 001 005 006 010 026 046. G & S: (Based on Use in Commerce) Chemical preparations for use in manual orthopedic products, namely, unprocessed artificial resins, raw and synthetic resins for use in manufacture of medical and surgical devices, adhesives for use in the manufacture of medical and surgical devices; chemicals for use in the manufacture of medical and surgical devices for the medical, orthopedic and cosmetic fields. First Use: 1973/11/30. First Use In Commerce: 1973/11/30.

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: (Based on Use in Commerce) Bleaching preparations and other

substances, namely, cleansing lotion for skin, prosthesis, orthosis and liner for laundry use; cleaning, polishing, scouring and general purpose cleaning, polishing, and abrasive liquids and powders, soaps, perfumery, essential oils for skincare; cosmetics, hair lotions, dentifrices. First Use: 1974/12/31. First Use In Commerce: 2001/04/10.

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: (Based on Use in Commerce) Medical plasters and surgical and wound dressings. First Use: 1974/12/31. First Use In Commerce: 1977/09/09.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Controlling apparatus for artificial limbs; electrical controllers for artificial limbs; electrical apparatus and instruments that sense pressure and body potential and measure units of pressure, body potential and positioning for artificial limbs; software for adjustment of artificial limbs.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: (Based on Use in Commerce) Surgical and medical instruments and equipment, namely, artificial joints; orthopedic articles, namely, orthopedic belts, braces, footwear, joint implants, soles, support bandages, supports, paddings and splints; wheeled stretchers, canes for medical purposes and crutches; physical exercise apparatus for medical purposes; electric and non-electric massage apparatus; cushions for medical purposes and pads for preventing pressure sores of patient bodies. First Use: 1965/01/01. First Use In Commerce: 1965/01/01.

Goods/Services

Class Status -- ACTIVE. IC 012. US 019 021 023 031 035 044. G & S: (Based on Use in Commerce) Apparatus for locomotion by land, air or water, namely, wheel chairs and pushchairs; seats for children for wheel chairs and pushchairs; head-rests and support cushions for wheel chairs and pushchairs. First Use: 1974/12/31. First Use In Commerce: 1988/10/31.

Goods/Services

Class Status -- ACTIVE. IC 017. US 001 005 012 013 035 050. G & S: (Based on Use in Commerce) Semi-processed resins and plastics in pellet and block form or as gel for use in the manufacture of upholstery material or covers in the furniture industry; semi-processed resins and plastics in pellet and block form or as gel for use in the manufacture of shock absorbing material as well as for pressure distribution purposes in the golf, tennis, football, soccer, field hockey, motor sport and cycling sports article industry; semi-processed resins and plastics in pellet and block form or as gel for use in the manufacture of shock absorbing material in the shoe industry; semi-processed resins and plastics in pellet and block form

or as gel for use in the manufacture of motor vehicle parts, dashboards, side coverings, arm supports and seats; semi-processed resins and plastics in pellet and block form or as gel for use in the manufacture of upholstery material and for the improvement of the soft touch as well as for shock absorbing purposes in the automobile industry; semi-processed synthetic resins and plastics in pellet and block form or as gel for use in the manufacture of orthopedic articles, namely, trusses, orthopedic harnesses, orthopedic belts, orthopedic braces, abdominal bandages, truss pads for ortheses, pads for ortheses and orthopedic shoes, arch supports, soles, heels, heel wedges, shoes tips and inlays, sealing, packing and insulating materials, orthopedic walking, standing, lying and supporting appliances, artificial feet, legs, arms, hands and parts thereof, cushions for medical purposes and supporting treatment of pressure complaints and decubitus of sick persons, prophylaxis of decubitus, patient substratums, mattresses for medical purposes, varicose vein stockings, shock absorber for orthopedic and medical purposes; semi-processed synthetic resins and plastics for use in the orthopedic industry and clinical medical field; semi-processed plastic, namely, padding inlays and covers for orthopedic and medical purposes; and plastic film for use in the orthopedic and medical field. First Use: 1965/01/01. First Use In Commerce: 1965/01/01.

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: (Based on Use in Commerce) Woolen fabric, household linen, table linen, bed linen, mattress covers, cloth fabric-gauze, sanitary flannel, face towels of textile, jute fabric, woolen cloth. First Use: 1974/12/31. First Use In Commerce: 1998/12/31.

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 025. US 022 039. G & S: Post-mastectomy clothing, namely, camisoles, t-shirts, shirts, night gowns, swimwear, body suits and brassieres.

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 028. US 022 023 038 050. G & S: Gymnastic apparatus, namely, gymnastic horizontal bars and gymnastic training stools; sporting goods for the handicapped, namely, treadmills.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Repair and maintenance of mechanical, electric and electronic apparatus and instruments for medical and orthopedic purposes.

Foreign Country Name

FED REP GERMANY

Foreign Priority

FOREIGN PRIORITY CLAIMED

Foreign Application Number

30242585.3/1

Foreign Filing Date

2002/08/30

Foreign Registration Number

30242585

Foreign Registration Date

2003/02/28

Foreign Expiration Date

2012/08/31

Prior Registration(s)

1621793;1774149

Name/Portrait Statement

"Otto Bock" is the name of a deceased individual.

Filing Date

2003/02/26

Examining Attorney

CARTY, GEORGIA

Attorney of Record

Philana S. Handler

Offork

DESIGN MARK

Serial Number

77195720

Status

REGISTERED

Word Mark

ENHANCING OUTCOMES FOR PATIENTS AND THEIR CAREGIVERS

Standard Character Mark

Yes

Registration Number

3854127

Date Registered

2010/09/28

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Hill-Rom Services, Inc. CORPORATION DELAWARE 1069 State Route 46 East Batesville INDIANA 47006

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Computer hardware for healthcare facilities; computer software for healthcare facilities for use in the communication of information related to patients, staff, and equipment; computer software for healthcare facilities for use in collecting and displaying critical path patient related information on a real-time basis; computer software for use in healthcare facilities to collect, collate, store, analyze, display and distribute patient and patient bed data by means of a healthcare facility computer network; computer software for use in healthcare facilities to monitor and display patient status and location; computer software to monitor healthcare facility patient and patient bed data and issue alerts based thereon; computer software for healthcare facilities for the management and monitoring of patient health; computer software for healthcare facilities for the communication and exchange of information among healthcare providers; computer software for healthcare facilities for the collection, editing, organizing, modifying, book marking, transmission, storage

and sharing of data and information; data collection systems consisting of computer hardware and software for the collection of data for healthcare facilities; healthcare facility communication and location systems consisting of patient position and patient physical condition sensors and input devices; patient bed operational status and patient bed location sensors and input devices, and computer software to monitor patient and patient bed data and issue alerts based thereon; headwall gas/electricity distribution units for use in supplying medical gases and electricity to patient rooms in healthcare facilities; parts and fittings for all of the foregoing goods. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Educational services, namely, healthcare classes, seminars and workshops. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 012. US 019 021 023 031 035 044. G & S: Wheelchairs. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 044. US 100 101. G & S: Consulting services in the field of healthcare; medical services, namely, consultation services related to patient management, treatment and monitoring; medical equipment rental services. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Therapeutic pressure reduction patient support mattresses and therapeutic pressure reduction patient support mattress overlays for medical purposes; fluidized patient support apparatus in the nature of a therapeutic support mattress and medical grade microspheres for use therewith, medical stretchers; patient positioning, manipulating and lifting apparatus; medical stirrup systems, namely, stirrup pads, stirrup straps, stirrup boots, stirrup adjustment sockets, and stirrup adjustment clamps; intravenous poles; fixed, articulated and telescoping arms for supporting and positioning medical equipment, and to supply medical gas, electricity and communication hook ups; medical accessory racks specially fitted and adapted for holding medical accessories; medical examination lamps; head cradles and pads for use in medical procedures; body extremity suspension, traction and support systems consisting of traction apparatus for medical use and supports for general medical use; commodes for medical patients and disabled persons; mobility aids, namely, invalid walkers; airway clearance system comprised of vest, air-pulse generator, tubing and hand/foot pedal; parts and fittings for all of the foregoing goods. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 020. US 002 013 022 025 032 050. G & S: Healthcare facility furniture; hospital beds, surgical beds, medical beds and therapeutic beds; mattresses, mattress overlays, motorized patient transport mechanism, namely, motorized transport mechanism for transporting patients, sold as a component of hospital and medical beds; motorized patient positioning mechanisms, namely, motorized mechanisms for changing the position of a bed to facilitate the positioning of persons using the bed, sold as a component of beds; controller and display monitor for controlling hospital beds, namely, for controlling bed lighting and patient positioning, sold as an integral part of beds; medical bed exit detection systems sold as an integral part of beds; parts and fittings for all of the foregoing goods; woven and non-woven textile fabrics sold as a component of mattresses. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Management of healthcare facilities and providers for others; data processing services; business research services, namely, providing analysis of patient and caregiver data relative to specific facility locations; inventory management in the field of medical equipment; direct retail sales services through mail, telephone and on-line orders and through direct solicitation by sales agents, all in the field of medical equipment and supplies, retail and wholesale store services featuring medical equipment and supplies. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Maintenance and repair of healthcare furnishings and equipment, repair of medical equipment, remanufacturing services in the nature of refurbishing medical equipment; technical support services, namely, providing installation, operations, maintenance and repair advice in the fields of healthcare furnishings, healthcare equipment and medical equipment; decontamination services in the nature of cleaning and disinfecting medical and healthcare equipment and healthcare furnishings. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Healthcare facility design services; design and installation of healthcare computer network information systems; consulting services related to healthcare computer network information systems, technical support services for healthcare computer network information systems in the nature of monitoring of and troubleshooting problems with healthcare information systems. First Use: 2007/00/00. First Use In Commerce: 2007/00/00.

-3-

Prior Registration(s)

2008255;2219375;3163556

Filing Date 2007/06/01

Examining Attorney WELLS, KELLEY

Attorney of Record Louis K. Ebling

4-

ENHANCING OUTCOMES FOR PATIENTS AND THEIR CAREGIVERS

DESIGN MARK

Serial Number

77334544

Status

REGISTERED

Word Mark

IKARIA

Standard Character Mark

Yes

Registration Number

3778583

Date Registered

2010/04/20

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

IKARIA, INC. CORPORATION DELAWARE PERRYVILLE III CORPORATE PARK, 53 FRONTAGE, ROAD, 3RD FLOOR, P.O. BOX 9001 HAMPTON NEW JERSEY 088279001

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: Pharmaceuticals and pharmaceutical gases for the treatment of respiratory ailments, cancer, heart attack, hypertension, stroke, shock, and trauma; pharmaceuticals for the treatment of patients undergoing surgery and blood transfusions; dietary and nutritional supplements. First Use: 2007/09/00. First Use In Commerce: 2007/09/00.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Installation, repair and maintenance of medical apparatus, instruments and delivery devices for administering gases and pharmaceuticals to patients for medical and therapeutic purposes. First Use: 2007/09/00. First Use In Commerce: 2007/09/00.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Research,

77334544

Print: May 18, 2015

design and development services in the fields of medical science, pharmaceuticals, pharmaceutical gases, medical devices, medical apparatus, instruments and delivery devices for administering gases and pharmaceuticals to patients for medical and therapeutic purposes; information services, namely, providing medical and scientific research and development information in the fields of pharmaceuticals, pharmaceutical gases and medical devices. First Use: 2007/09/00. First Use In Commerce: 2007/09/00.

Goods/Services

Class Status -- ACTIVE. IC 044. US 100 101. G & S: Providing information, consultancy and advisory services in the field of medicine, namely, providing medical information and advice in the fields of medical devices, pharmaceuticals, and pharmaceutical gases. First Use: 2007/09/00. First Use In Commerce: 2007/09/00.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Medical devices, apparatus, instruments and delivery devices for administering gases to patients for medical and therapeutic purposes; medical ventilators; respiratory devices for medical and therapeutic use; medical devices for the treatment of organ transplantation, namely, donor organ perfusion apparatus. First Use: 2007/09/00. First Use In Commerce: 2007/09/00.

Prior Registration(s)

3443089:3450879

Filing Date

2007/11/20

Examining Attorney

FINK, GINA

Attorney of Record

Andrew N. Spivak

IKARIA

DESIGN MARK

Serial Number

77663096

Status

REGISTERED

Word Mark

RENSOW

Standard Character Mark

Yes

Registration Number

4154389

Date Registered

2012/06/05

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

RENSOW HEALTH CARE SUPPLIES INCORPORATED CORPORATION NEW YORK 57-00 49TH PLACE MASPETH NEW YORK 11378

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: house mark for non-medicated personal hygiene and personal care products and preparations, namely, denture cleansers, emery boards, mouth wash, nail polish remover pads, sun block preparations, talcum powder, toothpaste; cleaning preparations; laundry preparations, namely, laundry detergents, laundry soaps, fabric softeners, laundry pre-soak, laundry starch and laundry bleach. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: house mark for medicated, medical pharmaceutical, dental and sanitary products and preparations, namely, anti-fungal creams and powders, wound care products namely, dressings, nylon strips for use as bandages for dressings, cotton balls and cotton swabs for medical use, topical first aid gel, topical gel for medical and therapeutic treatment of wound care; sanitary belts, sanitary pads, tampons, oral

wound rinse, pre-moistened medical wipes, air deodorizers, disinfectants for hygienic and sanitary purposes, disinfectants for medical instruments, incontinence garments and pads, adult diapers; incontinence cloth diapers for hospital patients; nutritional and dietary vitamins and supplements in powder, tablet and liquid form; disinfectants for medical use; dental adhesives; nasal spray preparations, plastic bandages in the nature of bandages for dressings. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: house mark for surgical, medical and dental apparatus, instruments, appliances, and supplies, namely, abdominal belts, oxygen tubing and bags, blood lancets, specimen containers, oral and rectal thermometers, absorbent surgical sponges, emesis basins and covers, plastic bandages in the nature of compression bandages, enema kits comprised of plastic bucket, tube, plastic clamp, castile soap packet, and moisture-proof underpad; bed pan covers, hand protectors for medical use in the nature of wrist and hand supports and positioners, protective gloves and shields to protect the hand from splashing liquids, stretchers and belts for medical purposes, single use cold and hot compresses, bio-hazard bags for storing medical waste, sharps containers, urine collector for medical use and medical specimen container; medical specimen collectors, denture containers; elastic bandages; elastic wraps in the nature of compression bandages; abdominal pads, padding for orthopedic casts; incontinence underpads used for bedding; safety alarms for medical use in the nature of patient monitoring sensors and alarms; surgical shoe covers; medical wearing apparel, namely, caps, shoes and gloves; body mass index calculators in the nature of calipers; safety alarms for personal use, namely, patient monitoring sensors and alarms. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Goods/Services

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050. G & S: house mark for pitchers, tumblers, dispensers for products in liquid, paste, or gel form, namely, soap dispensers, soap holders, toilet paper holders, soap holders, plastic plates, plastic cups; household and cooking utensils, namely, wire baskets, spatulas, turners, strainers, sieves, skimmers, tongs, pouring and straining spouts; toothbrush holders; hair brushes and combs; lint removers, namely, lint brushes; hair brushes and combs, battery-operating lint removers; electric lint removers; absorbent bath sponges; absorbent cleaning sponges; patient utensils, namely, carafes, trays, pitchers, tumblers, drinking glasses, and plates; toothbrushes. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: house mark for towels, underpads used in bedding, gauze fabrics. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: house mark for infant cloth diapers for use in hospitals, not for medical use; footwear, headwear and gloves as clothing for use by hospital patients and personnel, not for medical use. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: retail and wholesale store services featuring healthcare, medical, nursing, pharmaceutical and household products; mail order catalogue store services and online store services featuring healthcare, medical, nursing, pharmaceutical and household products. First Use: 2009/03/01. First Use In Commerce: 2009/03/01.

Prior Registration(s)

2665622

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2009/02/04

Examining Attorney

HESIK, APRIL

Attorney of Record

Andrew A. Gonzalez, NY and NJ Bar Member

RENSOW

DESIGN MARK

Serial Number

77890788

Status

REGISTERED

Word Mark

MED SYSTEMS

Standard Character Mark

No

Registration Number

3888894

Date Registered

2010/12/14

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Med Systems CORPORATION CALIFORNIA 2631 Ariane Drive San Diego CALIFORNIA 92117

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: On-line retail and wholesale store services featuring percussors, anatomical masks, and head straps for anatomical masks. First Use: 2007/08/31. First Use In Commerce: 2007/08/31.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Percussors, anatomical masks, head straps for anatomical masks. First Use: 2007/08/31. First Use In Commerce: 2007/08/31.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MED SYSTEMS" APART FROM THE MARK AS SHOWN.

Description of Mark

The mark consists of the words "MED" and "SYSTEMS" encased in a rectangle, which is superimposed over a circle.

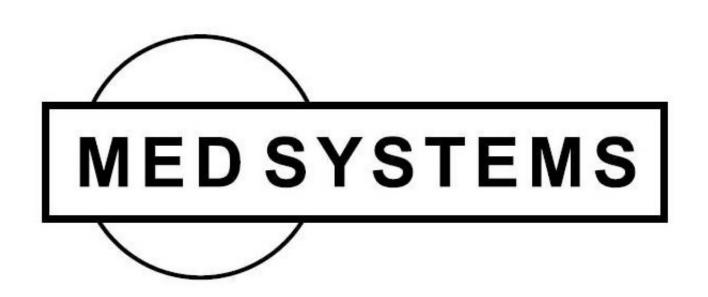
Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date 2009/12/10

Examining Attorney SALEMI, DOMINICK

Attorney of Record Scott W. Kelley



DESIGN MARK

Serial Number

77980719

Status

REGISTERED

Word Mark

AUDIFON

Standard Character Mark

No

Registration Number

3885436

Date Registered

2010/12/07

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

audifon GmbH & Co. KG limited partnership with the sole general partner being a limited liability company FED REP GERMANY Werner-von-Siemens, Straße 2 99625 Kölleda FED REP GERMANY

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Apparatus for recording, transmission or reproduction of sound, namely, audiometer and hearing aids analyzer; electric accumulators and chargers for accumulators; acoustic couplers; batteries; Cases specially adapted for holding or carrying acoustic instruments, namely, acoustic meters for the hearing impaired; software for programming and fitting hearing aids. First Use: 2007/01/00. First Use In Commerce: 2007/01/00.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Tinnitus instruments; hearing aids and structural parts therefor; hearing aid glasses; Cases specially adapted for holding or carrying hearing aids for the hearing impaired. First Use: 2007/01/00. First Use In Commerce: 2007/01/00.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Repair and maintenance of medical and audiological apparatus and instruments; repair and maintenance of hearing aids. First Use: 2007/01/00. First Use In Commerce: 2007/01/00.

Prior Registration(s)

3154377

Description of Mark

The mark consists of the stylized word "audifon".

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2009/02/17

Examining Attorney

PARADEWELAI, BENJI

Attorney of Record

Philana S. Handler

audifon

DESIGN MARK

Serial Number

78728880

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

ALMA

Standard Character Mark

Yes

Registration Number

3221700

Date Registered

2007/03/27

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Alma Lasers, Inc. CORPORATION DELAWARE 485 Half Day Road, Suite 100 Buffalo Grove ILLINOIS 60089

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Lasers for medical use and light based medical equipment for use on human skin as light therapy for skin treatment. First Use: 2005/10/06. First Use In Commerce: 2005/10/06.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Repair and maintenance of lasers for medical use and light based medical equipment. First Use: 2005/10/06. First Use In Commerce: 2005/10/06.

Filing Date

2005/10/07

Examining Attorney

BLOHM, LINDA E.

ALMA

DESIGN MARK

Serial Number

78980239

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Registration Number

3494176

Date Registered

2008/08/26

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(2) DESIGN ONLY

Owner

KONICA MINOLTA, INC. CORPORATION JAPAN 2-7-2, Marunouchi, Chiyoda-ku Tokyo JAPAN

Goods/Services

Class Status -- ACTIVE. IC 001. US 001 005 006 010 026 046. G & S: Chemical substances for processing exposed graphic arts films, paper and plates; chemical substances for processing exposed medical X-ray films; unexposed photographic dry plates for graphic arts; unexposed graphic arts films; unexposed graphic arts paper; unexposed X-ray films; unexposed photographic films for scientific measuring; unexposed photographic films for use in industries; unexposed photographic films for use with cameras to record images viewed on CRT display in medical diagnosis; pre-sensitized plates for offset printing. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 002. US 006 011 016. G & S: Developers and toners used for xerographic machines; ink cartridges for computers, printers and word processors; ink cartridges for inkjet printers; ink cartridges for xerographic machines; mimeographic inks; printing compositions; printing ink; toner and developer for use in photocopying machines, optical scanners, computer printers, inkjet printers, laser printers, optical printers, microfilm reader-printers; toner cartridges for xerographic machines. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 007. US 013 019 021 023 031 034 035. G & S: Apparatus for making proofs used in graphic arts, namely, proofers; apparatus for mixing chemicals specially used in printing, namely, mixers; apparatus for preparing printing plates or preparing graphic arts film, namely, automatic processors and image recorders; printing machines; printing plates. First Use: 2007/06/30. First Use In Commerce: 2007/06/30.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Audio mixers and audio speakers, control systems, namely, computer consoles and supporting software for the control and integration of text, audio, graphics, still images and moving pictures in planetariums; automatic document feeders, cassettes, sorters, and all fittings of copying machines; automatic machines for processing exposed graphic arts film, paper and plates; automatic machines for processing exposed-medical X-ray films; cameras to record images viewed on CRT display; computer peripheral devices; computer printers; recorded computer programs for controlling, connecting a network with, or for use in copying machines, computer printers, facsimile machines, multifunctional products having functions of copying, printing, and scanning, or image scanners; recorded computer software for controlling, connecting a network with, or for use in copying machines, computer printers, facsimile machines, multifunctional products having functions of copying, printing, and scanning, or image scanners; computer software and computer programs for creating, manipulating, editing, managing, organizing, storing, transferring and printing digital photographs, digital and graphic images, data, text, audio, video and recorded information; copying machines; densitometers; electronic printers as components of computers; electronic viewers; facsimile machines; industrial meters used in photography, namely TV color balance analyzers, illuminance meters, luminance meters, colorimeters, spectroradiometers, chlorophyll meters, spectrophotometers, glossmeters, UV radiometers, CRT focus meters, convergence meters and chroma meters, non-contact three-dimensional digitizers; inkjet printers; interfaces for computer; laser printers; pre-recorded magnetic data media containing pictures, still images, moving images, movies, music, sound, recording discs; blank magnetic data media; pre-recorded magnetic data media containing pictures, still images, moving images, movies, music, sound; blank magnetic memory disks; pre-recorded magnetic memory disks containing pictures, still images, moving images, movies, music, sound; memory disk drive; microfilm cameras; microfilm reader-printers; unrecorded optical discs and prerecorded optical discs with photo images, music and animation; optical fibers; optical glass; optical lenses; optical printers; optical scanners; photo-copying machines; photomask blanks as materials for use in production of IC-electric parts; photoreceptor; computerized phototypesetting machines; planetarium equipment, namely, domescreen, projectors, space simulators, lifter units, systems projecting digital images with high picture quality onto screen in the shape of dome inside planetariums, video and audio,

namely, disc or cassette video and audio recorder and players and projectors; planetariums; pre-recorded videodiscs and tapes with photo images, music and animation; printers for use with computers; roentgen cameras; scanners; supporting computer software for use in conjunction with photocopying machines, scanners, optical scanners, computer printers, inkjet printers, laserprinters, printers, optical printers, and facsimile machines, namely, driver software and network utility software; printers. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Apparatus and instruments for medical analysis and diagnosis and peripheral devices thereto, namely, direct digitizers, laser imagers, consoles, film processors, film cassettes, densitometers and pulse oximeters; intensifying screens for X-ray films used for medical X-ray photography; jaundice meter; medical X-ray photograph duplicators; oximeter; roentgen apparatus for medical purposes. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050. G & S: Electric staplers; bond paper, and carbon paper; printed matter, namely, posters, postcards, and catalogues and magazines featuring cameras, copiers, printers, printing machines, X-ray diagnostic apparatus and industrial meters; photographs; papers for copying machines, printers and facsimile machines; plain paper for xerographic machine; [postal frankers;] postcards; stationery. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Advertising; document or magnetic-tape filing; document reproduction; office function, namely, copying services of documents and data processing services; photocopying; professional business consultancy; rental of office machine and equipment, namely, office copier including copying apparatus and electronic printer, rental or leasing of typewriters, copy machines and/or word processors; leasing of copiers. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Installation, maintenance and repair of cinematographic equipment; installation, maintenance and repair of electrical measuring equipment, apparatus and instruments; installation, maintenance and repair of office machines and equipment, namely, copying apparatus, electronic printer and facsimile apparatus; installation, maintenance and repair of optical electronic equipment; installation, maintenance and repair of photographic processing, developing and/or printing machine; installation, maintenance and repair of planetarium equipment; installation, repair and maintenance of medical apparatus

and instruments; installation, repair and maintenance of office and business machines and equipment; installation, repair and maintenance of photographic apparatus; machinery installation, maintenance and repair; maintenance and repair of machines for use in precision machines and apparatus, namely, medical, surgical apparatus and instruments; repair and maintenance of computers, central processing units and programmed data carrying electronic circuits or magnetic disks and other peripheral equipment; repair and maintenance of electrical apparatus and instruments for home use; repair and maintenance of electrical communication apparatus and instruments; repair and maintenance of electrical distribution or control machines and instruments; repair and maintenance of measuring apparatus and instrument; repair and maintenance of physical or chemical apparatus and instruments; repair and maintenance of printing machines and bookbinding machines. First Use: 2003/10/31. First Use In Commerce: 2003/10/31.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Education services, namely, conducting seminars, classes, workshops, correspondence courses and on-line courses relating to sales of and after-sales services for copiers, printers, medical apparatus for diagnostic purposes, industrial meters such as spectrophotometers and non-contact three-dimensional digitizers; rental and leasing of industrial meters used in photography, namely, TV color balance meters, illuminance meters, luminance meters, colorimeters, spectroradiometers, chlorophyll meters, spectrophotometers, glossmeters, UV radiometers, CRT focus meters, convergence meters and chroma meters, non-contact three-dimensional digitizer. First Use: 2007/08/31. First Use In Commerce: 2007/08/31.

Colors Claimed

Color is not claimed as a feature of the mark.

Filing Date

2003/07/28

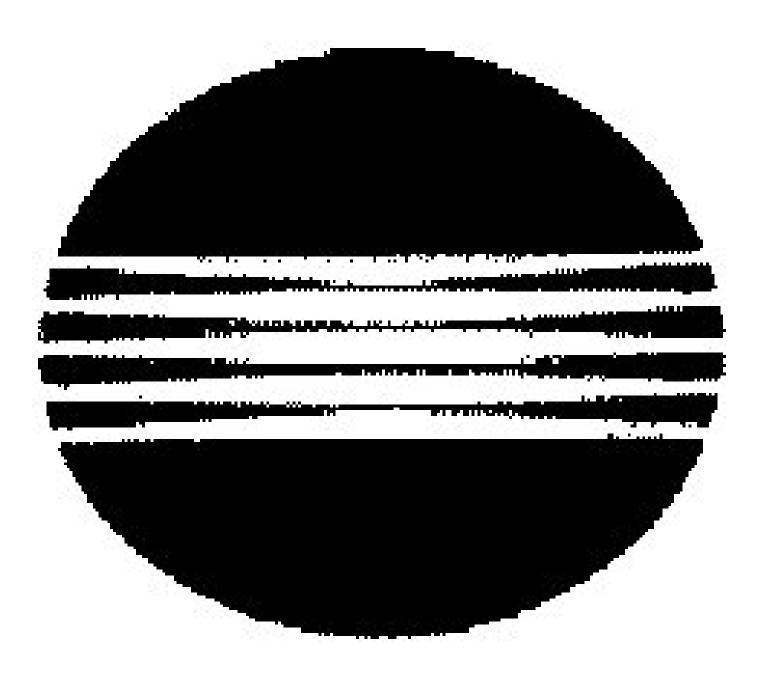
Examining Attorney

CROSS, TRACY

Attorney of Record

Christopher S. Adkins

4.



DESIGN MARK

Serial Number

85060526

Status

REGISTERED

Word Mark

MYBUY

Standard Character Mark

Yes

Registration Number

4109583

Date Registered

2012/03/06

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Corsco Unlimited, Inc. CORPORATION ILLINOIS 1620 Barclay Blvd. Buffalo Grove ILLINOIS 600894523

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Online and catalog retail and wholesale store services featuring medical, nursing, healthcare, dental, and veterinary uniforms, clothing, lab coats, scrubs, surgical scrub suits, shoes, footwear, disposable protective gloves for medical purposes, and apparel and medical apparatus, supplies and instruments, namely, medical apparatus and instruments, namely, stethoscopes, blood testing apparatus, blood pressure monitors and sphygmomanometers, ECG monitoring apparatus, pulse oximeters, otoscopes, opthalmoscopes, dermatoscopes. First Use: 2011/01/02. First Use In Commerce: 2011/01/02.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Diagnostic sets comprising otoscopes, and opthalmoscopes for diagnosing ear, nose and throat diseases; Clinical thermometers; medical scissors; surgical forceps; needles for medical purposes; syringes for medical purposes; Doctor and health professional medical bags and medical cases for

transportation of equipment and designed to hold medical instruments, namely, stethoscopes, otoscopes, opthalmoscopes, dermatoscopes, thermometers, medical scissors, surgical forceps, needles for medical purposes, and syringes for medical purposes, sold empty. First Use: 2011/01/02. First Use In Commerce: 2011/01/02.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: General purpose medical bags sold empty. First Use: 2011/01/02. First Use In Commerce: 2011/01/02.

Filing Date

2010/06/11

Examining Attorney

RADEMACHER, MARK

Attorney of Record

James P. Hanrath

-2-

MYBUY

DESIGN MARK

Serial Number

85749618

Status

REGISTERED

Word Mark

NEXTETICS

Standard Character Mark

Yes

Registration Number

4464700

Date Registered

2014/01/14

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Estetique Inc. USA CORPORATION FLORIDA 10111 Business Drive Miramar FLORIDA 33025

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Medical and spa equipment for non-invasive beauty procedures, namely, massage apparatuses and microdermabrasion apparatuses to be used in high-end spas, day spas, medical spas, dermatology and plastic surgery centers. First Use: 2012/06/01. First Use In Commerce: 2012/06/01.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Retail and wholesale mail-order store services featuring spa equipment, namely, devices used in high-end spas, day spas, medical spas, dermatology and plastic surgery centers; wholesale mail-order store services featuring surgical and spa devices used in the field of Dermatology; Retail and wholesale mail-order store services featuring devices used in the field of Plastic Surgery; Online retail and wholesale store services featuring spa equipment, namely, devices used in high-end spas, day spas, medical spas, dermatology and plastic surgery centers; Online retail and wholesale store services featuring surgical and spa devices

in the field of Dermatology; Online retail and wholesale store services featuring devices used in the field of Plastic Surgery. First Use: 2012/06/01. First Use In Commerce: 2012/06/01.

Filing Date

2012/10/09

Examining Attorney

KUYKENDALL, LYNDSEY

Attorney of Record Michael N. De Biase

-2-

NEXTETICS

DESIGN MARK

Serial Number

85869571

Status

REGISTERED

Word Mark

MEDRAD

Standard Character Mark

Yes

Registration Number

4509307

Date Registered

2014/04/08

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

BAYER MEDICAL CARE INC. CORPORATION DELAWARE 100 BAYER DRIVE INDIANOLA PENNSYLVANIA 15051

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: computer software for managing a medical fluid delivery system and related accessories; computer software for monitoring, controlling and regulating the functions of a medical fluid delivery device; computer software and associated computer hardware for use in collecting, storing, managing, processing, communicating and reporting of data obtained from medical devices, medical related devices and input devices to which the hardware interconnects; computer software for use in monitoring, controlling and/or regulating the injection of medical fluids with a medical fluid delivery system; extravasation detection system comprised primarily of computer hardware and software for monitoring the injection of medical fluids; wireless communication network systems, namely, wireless access point (WAP) devices and associated computer hardware and software for wireless data delivery; wireless communication network systems, namely, wireless access point (WAP) devices and associated computer hardware and software for wireless data delivery all for use within a magnetic resonance imaging

(MRI) suite or similar electromagnetically noisy environment. First Use: 1996/02/23. First Use In Commerce: 1996/03/01.

Goods/Services

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: medical devices for delivering measured amounts of solutions into the bloodstream over time; medical devices for use in diagnostic or therapeutic procedures, namely, radiological imaging and interventional treatments; disposable fluid path medical tubing for administration of fluids to a patient; syringes for medical purposes and for injections; computer controlled automatic injection system or automatic infusion system for injecting medical fluids during the process of diagnosis or treatment of a condition in an individual; medical fluid delivery systems consisting of injectors, infusion pumps, catheters, syringes and disposable fluid path tubing; probes for medical purposes; patient monitoring devices for use with magnetic resonance imaging apparatus, namely, vital signs monitors; medical devices, namely, anatomical positioning devices in the nature of medical devices for use in immobilizing internal organs, particularly the prostate, during medical procedures for use with Magnetic Resonance Imaging (MRI); medical device, namely, coils and interface devices in the nature of anatomically conformable surface coils for use with Magnetic Resonance Imaging (MRI) systems; extravasation detection system for medical purposes comprised primarily of patient monitoring sensors, scan room and control room modules and sensor interface patches. First Use: 1966/12/31. First Use In Commerce: 1966/12/31.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: repair and maintenance of medical devices; repair and maintenance services for vascular injection systems, Magnetic Resonance Imaging (MRI) coils and ultrasound transducers. First Use: 2002/05/01. First Use In Commerce: 2002/05/01.

Prior Registration(s)

1021990;2282689;2285134;AND OTHERS

Filing Date

2013/03/07

Examining Attorney

POLLACK, ALISON

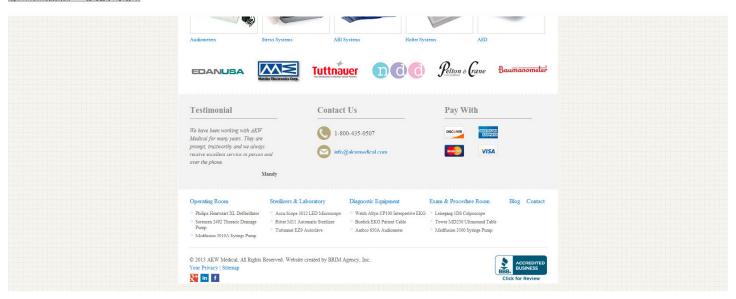
Attorney of Record

Jeffrey M. Gitchel

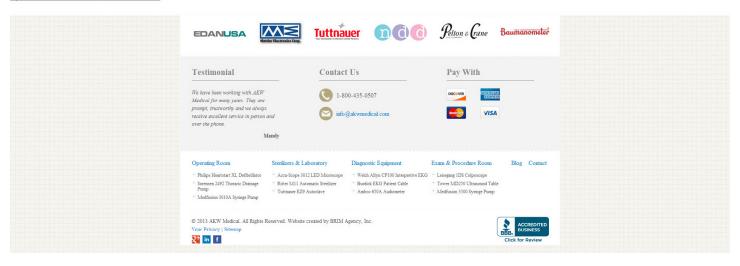
MEDRAD

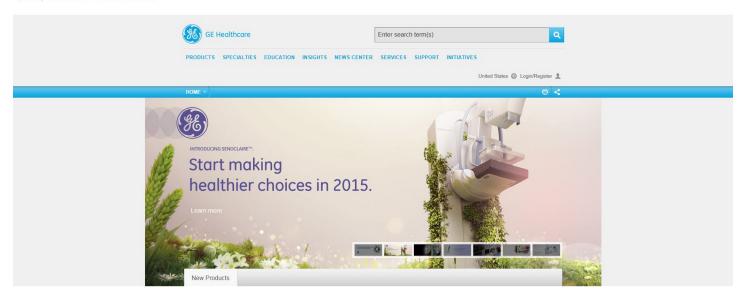














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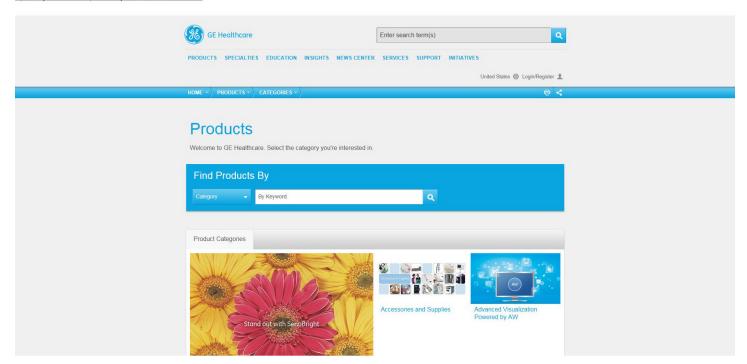


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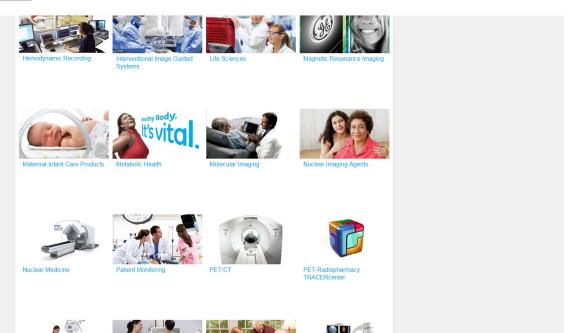


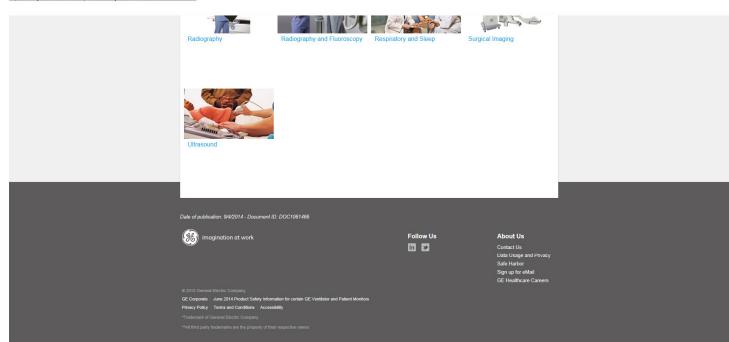
























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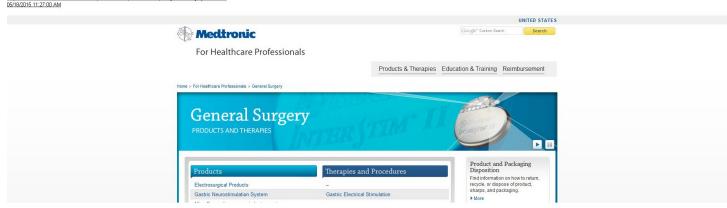
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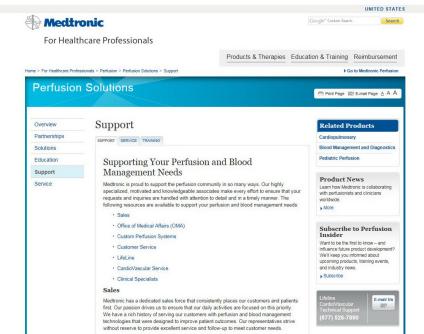
Partnering with Medtronic goes beyond a history of perfusion excellence. It means you'll be connected to a company that is committed to restoring patients to full, active lives. Medtronic embodies the quality you expect, the support you can trust and the training you can rely on.

We are committed to collaborating with perfusionists, and other extracorporeal clinicians, to deliver innovation in our ever-expanding portfolio of cardiopulmonary perfusion and blood management solutions.

Products Support Solutions







Our Rethinking Blood Conservation Initiative is an excellent example of Medtronic's commitment to partnership with hospitals and service providers to reduce costs and

improve outcomes. As we look toward the future, we have a renewed commitment to innovate in ways that continue to improve patients' lives. We invite you to contact your Medtronic sales representative for your perfusion and blood management needs.

Office of Medical Affairs (OMA)

The Medironic Cardivascular Office of Medical Affairs (CMA) is a non-sales, non-marketing resource trained in assisting medical personnel with scientific information upon request. The CMA may respond to requests for information directly made by a health care professional reagarding off-label uses of FDA approved products. The Information providers receive will be fair, balanced and include published, peer-reviewed literature. Meditronic Cardiváscular CMA welcomes assisting providers to ensure they have the information appropriate to care for patients in the best way possible.

Custom Perfusion Systems

Medtronic delivers customized perfusion circuits to your hospital or institution in a timely and cost effective manner. We are globally positioned to respond to the needs of our customers. Manufacturing and fulfilment services are coordinated out of our strategically located, state-of-the-art Tijuana, Mexico and Kerkrade, The Netherlands facilities.

Our proprietary and flexible planning process ensures that we listen and respond to your needs. We offer several customer programs to meet your needs and the needs of the environment, by offering the finest quality components assembled to your exact specifications and packaged with consideration to setup efficiency and respect for the environment. Our world-environed Gold program offers one of the fastest delivery timeframes of product from specification design through to utilization in the OR.

Customer Service and Order Management

Medtronic's highly trained customer service professionals have an in-depth knowledge of our products and services. Representatives pride themselves on providing innovative and customer-focused solutions that satisfy your business needs. With a goal of 9% order fulfillment, we strive to have the right product available when you need it. Our preferred order channel is Electronic Data Interchange (EDI) and we accept orders through phone requests, fax or erail. We will also assist with any product returns and credits. We will answer all your questions promptly with a commitment to excellence.

LifeLine Technical Services

LifeLine Technical Services is a resource for Meditronic customers, field force or other allied health professionals on Meditronic Perfusion Systems and Blood Management disposable devices and diagnostic products. We optimize our customers' experience by providing best-inclass technical and information support for all devices. Your inquiries are satisfied immediately or LifeLine will extend you access to other product experts. We also provide emergent technical support, 24 hours a day, 7 days a week. LifeLine also provides the following assistance to customers and patients:

- · Answer technical product questions
- · Offer hard copy and electronic versions of product brochures and instructions for use
- · Supply scientific sources regarding indicated usage of our products and technologies

 Provide educational support to patients using verbal and printed materials as related to surgical and medical concerns

CardioVascular Equipment Service and Technical Support

Meditronic Cardio/Vascular Service is a team of depot and field technicians, operations specialists and contract administrators who are committed to providing excellent equipment service and technical support 24 hours a day, 7 days a week. Our team has over 350 combined years of experience supporting and servicing the Meditronic Perfusion Systems and Blood Management capital equipment. Our offerings include:

- Time and materials maintenance
- . Service contract maintenance
- Technical support
- Biomedical technician training
- Repair parts sales

It is our goal to serve as a solutions center by partnering with you to improve patients' lives through the reliable support of your Medtronic biomedical equipment. Learn more about our service and training offerings.

Clinical Specialists

The clinical group at Medtronic Perfusion Systems has over 200 years of combined service to our perfusion, autotransfusion and laboratory clients. Our functions include:

- · Product training
- · Procedure support
- · Clinical and technical education
- · Clinical and technical troubleshooting
- · Hospital-wide education and lectures
- · Support at medical conferences
- New product development, support and research
- Working with our product assurance and quality groups to understand product complaints and help resolve clinical issues

We are also part of the marketing group and we work directly with our product managers to ensure that our current and future products best serve our clients. We travel extensively, both domestically and internationally, to provide the necessary support for our clients, enabling them to deliver optimal care to their patients.

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Bard Access Systems' Vascular Access Device Selection, Insertion and Management Online Course is designed for experienced IV clinicians who would like to learn how to place PICC and midline catheters. Educational hours will be awarded to registered nurses, who complete this online course and pass the final examination. This course also qualifies as a refresher course for those already placing PICC and midline catheters. (Access Code required †)

Course Cost: \$50

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Bard Access Systems' PowerHohn CVC Training Program is designed for experienced vascular access specialists who desire to place centrally-inserted central venous catheters. This





desire to place centrally-inserted central venous catheters. In is course includes a downloadable syllabus that covers insertion tools and techniques, relevant anatomy, risks and complications, care and maintenance, and documentation. Educational hours will not be awarded for this course.

This program is intended for those health care professionals whose state laws and/or regulatory bodies governing their practice pormit the placement of those devices. In order to add this course, you must confirm below that it is within your scope of practice.

☐ Yes, I certify that with the proper training, it is within my scope of practice in the state where I practice to insert, care for, and remove centrally-inserted central lines. (Access Code required 1)

Course Cost: Free



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Vascular access devices (VADs) have been developed to provide access to the circulatory system for the purpose of delivering intravenous therapies. New technologies have been developed to assist in the placement of VADs including enhanced ultrasound systems. Ultrasonographic-guided intravenous access is more successful than traditional "blind" techniques, requires less time, helps to decrease the number of percutaneous punctures, and can improve patient satisfaction in the subgroup of patients who have difficult intravenous access. Educational hours will not be awarded for this course. (Access Code required †)

Course Cost: Free

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SHERLOCK 3CG* TIP CONFIRMATION SYSTEM (TCS) TRAINING COURSE

Bard Access Systems' Sherlock 3CG* Tip Confirmation System (TCS) Training Course is designed to provide an introduction and virtual in-service for PICC clinicians who would like to learn how to place PICCs using the Sherlock 3CG* TCS. Educational hours will not be awarded for this course. (Access Code required †)

Course Cost: Free

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[†] An Access Code is required to access the Bard Access Systems' Clinical Training System. If you do not have an Access Code, please contact your Bard Access Systems' Sales Representative, use our <u>Sales Contact Form</u> or call Customer Service at 1-800-545-0890 to request an Access Code.

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individual vascular access needs and recommends the appropriate device options. Clinicians work proactively in determining and placing vascular access devices, which may enhance patient care while potentially lowering costs for the institution and patient.

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sur·gi·cal (sûr ji-kəl)

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adj.
1. Of, relating to, or characteristic of surgeons or surgery.
2. Used in surgery.
3. Resulting from or occurring after surgery.
4. Extremely accurate; precise: surgical airstrikes against enemy compounds.

sur gi-cal-ly adv.

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n. pl. spe-cial-ties 1.

- a. A special pursuit, occupation, aptitude, or skill: The professor's specialty was the study of ancient languages.
 b. A branch of medicine varyagers, such as cardiology or neurosurgery, in which a physician specializes; the field or practice of a specialist.
 c. An item or product of a distinctive kind or of particular superiority. French pastry is the chef's speciality.
 2. Law A contract or agreement that creates a greater obligation than an ordinary contract or agreement the creates a greater obligation than an ordinary contract or agreement because it is executed under seal.

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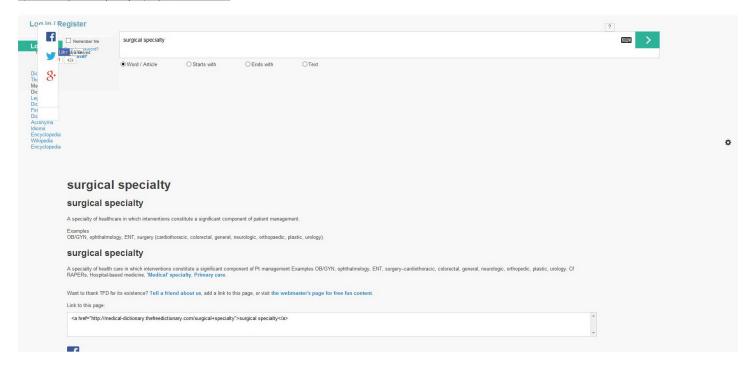
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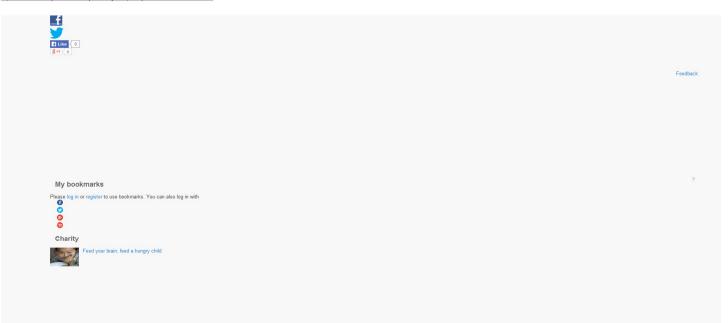


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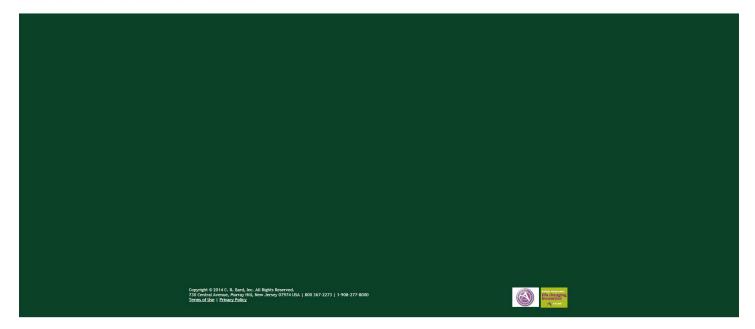
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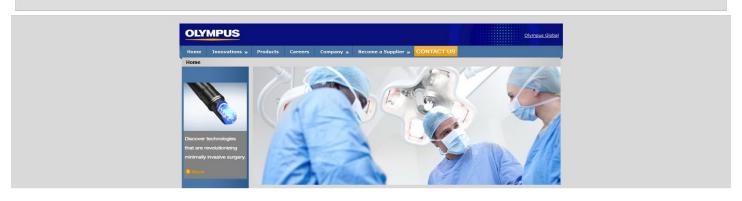








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Canada's Surgical Specialties manufactures the Sharpoint surgical suture and Surgical Specialities Suture at the Pennsylvania plant, according to the company's website. It also makes knives for ophthalmic surgery, comeal transplants and a biopsy sealant system to reduce the risk of suffering from a collapsed lung (pneumothorax).

The company says it manufactures the devices under its own brand and as an original equipment manufacturer for "virtually every medical device company in the U.S. and throughout the world."

Surgical Specialties has locations throughout the U.S., as well as Canada, Europe, Mexico City and Puerto Rico.

Surgical Specialties was formerly known as Angiotech. The website says that the company co-developed Boston Scientific's (\$BSX) Taxus drug-eluting stent and collects royalties on the sale of Cook Medical's Zilver peripheral vascular stent.

- read the article in Lehigh Valley Business

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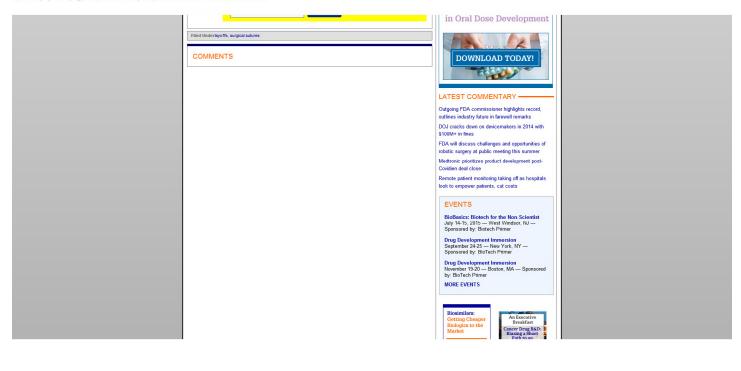
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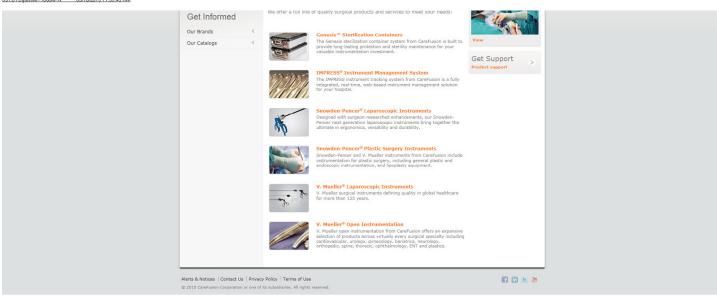
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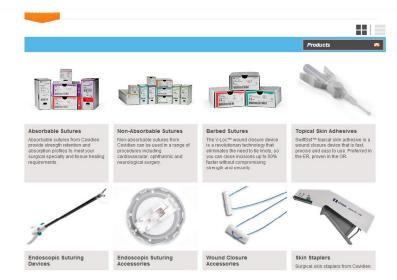
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To: Surgical Specialties Corporation (US), I ETC. (

KevinC.Docketing@SeedIP.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86081312 - SURGICAL

SPECIALTIES - 110129.20579

Sent: 5/18/2015 5:30:10 PM

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